

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT
★ DEC 29 2009
P.M.
TIME A.M. *[Signature]*

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HUGO HERNANDEZ,

Plaintiff,

ORDER
09 CV 1576 (ENV)(LB)

-against-

POLICE COMMISSIONER RAYMOND KELLY,
SERGEANT JAMES MCNAMARA, POLICE
OFFICER VICTOR LOPEZ, POLICE OFFICER
ANGEL CRUZ and POLICE OFFICER
CHRISTOPHER BALLEARA,

Defendants.

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BLOOM, United States Magistrate Judge:

By Order dated August 13, 2009, the Court denied without prejudice defendants' motion to stay this case pending the resolution of plaintiff's criminal case. See docket entry 14. The Court stated "it is incumbent upon the Court in this pro se, *in forma pauperis*, civil rights action to have defendants served before any stay is entered." Id. By letter dated August 31, 2009, Corporation Counsel for the City of New York ("Corporation Counsel") provided service addresses for defendants McNamara, Lopez, Cruz and Balleara, see docket entry 17, and the Court directed the United States Marshals Service ("USMS") to serve these defendants, see docket entry 19. Summonses for defendants McNamara, Lopez and Cruz were returned unexecuted. See docket entries 24 - 26.

By Order dated October 28, 2009, the Court again directed Corporation Counsel to provide addresses where defendants may be served. See docket entry 27. The Court also directed Corporation Counsel to bring this matter to the attention of her supervisor as it is a waste of resources to have the USMS serve process at addresses provided by the New York Police Department yet, have the summonses returned unexecuted. I warned the City that the Court would consider appropriate

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sanctions if this continues to happen. Id. Summonses for defendants McNamara, Lopez and Cruz were again returned unexecuted. See docket entries 30-32. The Corporation Counsel shall therefore write to the Court by **January 11, 2010** to accept service on behalf of defendants McNamara, Lopez and Cruz or shall show cause why a sanction in the amount of \$500.00 should not be entered against the City.

SO ORDERED.

Dated: December 23, 2009
Brooklyn, New York

LOIS BLOOM
United States Magistrate Judge